

IN THE
Court of Appeal of the State of California

IN AND FOR THE
Fifth Appellate District

COURTROOM PROCEEDINGS

The court met in its courtroom at 11:00 A.M. Present: Honorable Herbert I. Levy, Acting Presiding Justice; Honorable Gene M. Gomes, Associate Justice; Honorable Betty L. Dawson, Associate Justice; and Kay Frauenholtz, Clerk/Administrator, by Jill Rivera, Assistant Deputy Clerk.

F046392 Carlos T., Sr. v. Superior Court of Tulare County; Tulare Co. Health and Human Services Agency

Cause called and argued by Carlos Tovar, petitioner in propria persona. Marsha Perkes, Esq., Deputy County Counsel, counsel for real party waived oral argument.

Cause ordered submitted.

Court recessed until Tuesday, December 7, 2004 at 10:00 A.M.

IN THE
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F046561 In re Anthony G. et al., Minors; Fresno County Department of Children and Family Services v. Kathleen G. et al.; Pearly G.

IT IS HEREBY ORDERED that the appeal in the above-entitled action is dismissed.

F046198 In re Joseph T., a Minor

IT IS HEREBY ORDERED that the appeal in the above-entitled action is dismissed.

F045284 People v. Hurndon

The judgment is reversed. On remand, the trial court shall conduct a Marsden hearing. Should Hurndon still wish to pursue his motion for new trial on the grounds of ineffective assistance of trial counsel, the court shall appoint independent counsel to investigate the motion. If the trial court does not find adequate grounds for the Marsden motion and the motion for new trial, the court shall reimpose judgment.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F045869 In re Benjamin B. Jr., a Minor

IT IS HEREBY ORDERED that the appeal in the above-entitled action is dismissed.

F043252 People v. Ceja

The judgment is affirmed. The matter is remanded to the superior court so that an amended abstract of judgment may be issued showing the sentence on count 6 is stayed pursuant to section 654 and showing that the enhancement on count 1 was imposed pursuant to Health and Safety Code section 11370.2, subdivision (b). Cornell, J.

We concur: Levy, Acting P.J.; Gomes, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

IN THE
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F043611 People v. Munoz

The true finding on the section 11379.8 enhancement attached to count 1 is reversed. The section 11379.8 enhancement attached to count 2, which was stayed, remains enforceable. The matter is remanded to the superior court for retrial of the section 11379.8 enhancement attached to count 1 and for resentencing. If the district attorney does not elect to retry this enhancement, then defendant is to be resentenced within 60 days after issuance of the remittitur. The abstract of judgment is to be corrected to reflect that Munoz was convicted in count 2 of violating section 11379.6, subdivision (a). The judgment is affirmed in all other respects. Levy, Acting P.J.

I concur: Gomes, J.

I concur: Cornell, J.

(See Concurring opinion)

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F044201 People v. Hernandez

The judgment is affirmed. Levy, J.

We concur: Vartabedian, Acting P.J.; Harris, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

IN THE
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F045897 In re Jacob M., a Minor

The above-entitled case is submitted for decision.

F045897 In re Jacob M., a Minor

The judgment is affirmed.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F046286 People v. Gerena

Appellant having filed an abandonment and/or request for dismissal of appeal, IT IS HEREBY ORDERED that the appeal in the above-entitled action is dismissed.